

AMENDED IN ASSEMBLY APRIL 1, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2422**

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**Introduced by Assembly Member Nestande**  
**(Coauthor: Assembly Member Allen)**

February 21, 2014

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~~An act relating to taxation.~~ *An act to add and repeal Section 23691 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2422, as amended, Nestande. ~~Corporation tax: credits.~~ *Corporation Tax Law: credits: STEAM Investment Incentives Act.*

The Corporation Tax Law allows various credits against the ~~taxes~~ tax imposed by ~~those laws~~ that law.

*This bill would, for taxable years beginning on or after January 1, 2015, and before January 1, 2020, allow a credit against the tax imposed under that law for 50% of monetary contributions to nonprofit education improvement organizations, as defined, to fund qualified grants for K-12 education innovative programs relating to science, technology, engineering, math literacy, and the arts for private, public, or charter schools. The bill would provide that the credit would not exceed \$200,000 per taxpayer, that the credit would be awarded on a first-come, first-serve basis, and that the credit would have an aggregate cap of \$50,000,000 for each calendar year. The bill would require the Franchise Tax Board and the State Department of Education to administer the credit, as specified.*

*This bill would take effect immediately as a tax levy.*

~~This bill would state that it is the intent of the Legislature to enact legislation to allow a credit against the tax imposed by the Corporation Tax Law in the amount of 50% of a charitable donation to a nonprofit educational improvement organization that supports innovative programs in the arts or science, technology, engineering, and math learning for students in kindergarten or grades 1 to 12, inclusive, that attend public or private schools located in attendance areas with a high concentration of students from low-income families.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     *SECTION 1. This act shall be known and may be cited as the*  
2     *STEAM Investment Incentives Act.*  
3     *SEC. 2. The Legislature finds and declares the following:*  
4     *(a) Providing tax incentives to encourage private investments*  
5     *for the common good is sound public policy.*  
6     *(b) Expanding educational opportunities and improving the*  
7     *quality of, and access to, educational services within the state are*  
8     *valid public purposes that the Legislature may promote using its*  
9     *sovereign power to determine tax policy.*  
10    *(c) Creative tax policy can inspire greater charitable*  
11    *contributions and public-private partnerships that ensure*  
12    *additional resources for the education of all children in California.*  
13    *(d) Encouraging voluntary support for education, without*  
14    *prejudice for or against any state-sanctioned educational*  
15    *enterprise promotes the state's interest and common good in*  
16    *providing the highest quality education to all children in the state.*  
17    *(e) At a time when fiscal realities challenging California school*  
18    *communities demand innovative ways to deliver vital education*  
19    *services to public and private pupils in kindergarten and grades*  
20    *1 to 12, inclusive, charitable giving for educational purposes*  
21    *should be stimulated.*  
22    *(f) Expanding science, technology, engineering, and*  
23    *mathematics (STEM) learning and education in the arts is vital*  
24    *for our state and particularly for students from*  
25    *financially-disadvantaged families to help close their achievement*  
26    *gap.*

1     *SEC. 3. Section 23691 is added to the Revenue and Taxation*  
2     *Code, to read:*

3     23691. (a) *For each taxable year beginning on or after*  
4     *January 1, 2015, and before January 1, 2020, there shall be*  
5     *allowed as a credit against the “tax,” as defined in Section 23036,*  
6     *an amount equal to 50 percent of a monetary contribution provided*  
7     *by a taxpayer to a nonprofit education improvement organization*  
8     *to fund a qualified grant for a K-12 education innovative program*  
9     *for pupils attending private, public, or charter schools.*

10    (b) *For purposes of this section:*

11    (1) *“Charter school” means a California school established*  
12    *pursuant to Part 26.8 (commencing with Section 47600) of Division*  
13    *4 of Title 2 of the Education Code providing elementary or high*  
14    *school education that is located in an eligible school attendance*  
15    *area, as defined in Section 1113 of the federal Elementary and*  
16    *Secondary Education Act (20 U.S.C. Sec. 6301 et seq.).*

17    (2) *“Education improvement organization (EIO)” means a*  
18    *charitable institution in this state organized and operated as any*  
19    *of the following types of institutions: (A) art museum, (B) science*  
20    *center, (C) institution of higher education, (D) districtwide*  
21    *educational enrichment program, or (E) any other organization*  
22    *with the primary purpose to provide monetary support to a K-12*  
23    *education innovative program, that meets all of the following*  
24    *requirements:*

25    (i) *Contributes at least 80 percent of the qualified grants to a*  
26    *California public or private school for funding K-12 education*  
27    *innovative programs.*

28    (ii) (I) *Does not have a person that has been convicted of any*  
29    *sex offense as defined in Section 44010 of the Education Code*  
30    *supervising or assisting a pupil participating in a K-12 education*  
31    *innovative program.*

32    (II) *For the purposes of this section, a plea or verdict of guilty,*  
33    *a finding of guilt by a court in a trial without jury, or a conviction*  
34    *following a plea of nolo contendere shall be deemed to be a*  
35    *conviction.*

36    (iii) *Requires each employee or volunteer, whether prospective*  
37    *or current, who will directly and personally supervise or assist*  
38    *any pupil to comply with the provisions of Section 44237 of the*  
39    *Education Code in order to ascertain whether the prospective or*

1 *current employee or volunteer has been convicted of any sex*  
2 *offense as defined in Section 44010 of the Education Code.*  
3 *(iv) Has applied with the Franchise Tax Board to receive a*  
4 *qualified grant.*  
5 *(3) “Nonprofit” means an organization that meets all of the*  
6 *following requirements:*  
7 *(A) Is formed as any of the following:*  
8 *(i) A nonprofit public benefit corporation described in Part 2*  
9 *(commencing with Section 5110) of Division 2 of Title 1 of the*  
10 *Corporations Code.*  
11 *(ii) A nonprofit religious corporation described in Part 4*  
12 *(commencing with Section 9110) of Division 2 of Title 1 of the*  
13 *Corporations Code.*  
14 *(iii) Any other charitable corporation, as defined by Section*  
15 *12582.1 of the Government Code.*  
16 *(iv) A duly authorized foreign nonprofit corporation that has*  
17 *complied with all registration requirements under Section 6910*  
18 *of, and Chapter 21 (commencing with Section 2100) of Division*  
19 *1 of Title 1 of, the Corporations Code.*  
20 *(B) Is an organization exempt from federal income tax as an*  
21 *organization described in Section 501(c)(3) of the Internal Revenue*  
22 *Code.*  
23 *(4) (A) “Qualified grant” means a grant that does all the*  
24 *following:*  
25 *(i) Includes guidelines that detail what specific programs may*  
26 *be funded by the grant moneys.*  
27 *(ii) Limits the amount of grant moneys that may be used for*  
28 *administration or overhead costs.*  
29 *(iii) Is included on a list created by the State Department of*  
30 *Education pursuant to clause (i).*  
31 *(B) A qualified grant may include cash payments to a California*  
32 *private, public, or charter school to carry on a K-12 education*  
33 *innovative program or may include costs incurred by an EIO in*  
34 *providing a program to, or in conjunction with, a California*  
35 *private, public, or charter school.*  
36 *(5) “K-12 education innovative program” means instruction,*  
37 *programs, or other activities in science, technology, engineering,*  
38 *and math learning, or the visual and performing arts for a private,*  
39 *public, or charter school with a kindergarten or any grades 1 to*  
40 *12, inclusive, that involve one or more of the following:*

1     (A) *An advanced academic or similar program that is not part*  
2 *of the regular program of a private, public, or charter school, but*  
3 *enhances the curriculum of the school.*

4     (B) *A creative focus or delivery, including Internet-based and*  
5 *distance learning technologies, methodology, or skill training that*  
6 *enriches the academic program of the school.*

7     (C) *An integration of out-of-school time programs, offered*  
8 *before or after school hours, on weekends, as a summer program,*  
9 *or as a year-round program, that reinforces learning in the areas*  
10 *of science, technology, engineering, and mathematics, or visual*  
11 *and performing arts education of the curriculum year round.*

12     (D) *A cocurricular activity for pupils that is an elected*  
13 *educational activity that supplements education, including, but*  
14 *not limited to, gifted programs, visual and performing arts,*  
15 *academic clubs, and educational field trips.*

16     (6) *“Private school” means a person, firm, association,*  
17 *partnership, or corporation offering or conducting private school*  
18 *instruction in the State of California that is located in an eligible*  
19 *school attendance area, as defined in Section 1113 of the federal*  
20 *Elementary and Secondary Education Act (20 U.S.C. Sec. 6301,*  
21 *et seq.) and that meets all of the following requirements:*

22     (A) *Is accredited by the Western Association of Schools and*  
23 *Colleges or an affiliated organization.*

24     (B) *Has filed a current private school affidavit with the State*  
25 *Department of Education in accordance with Section 33190 of the*  
26 *Education Code.*

27     (C) *Complies with applicable provisions of the Health and*  
28 *Safety Code.*

29     (D) *Complies with applicable provisions of the Fair Employment*  
30 *and Housing Act (Part 2.8 (commencing with Section 12900) of*  
31 *Division 3 of Title 2 of the Government Code).*

32     (E) *Utilizes background checks in connection with hiring all*  
33 *school employees, consistent with the standards set forth in*  
34 *subdivision (a) of Section 44237 of the Education Code.*

35     (7) *“Public school” means any California day or evening*  
36 *elementary, middle, junior high, or high school established by*  
37 *statute or by municipal or district authority that is located in an*  
38 *eligible school attendance area, as defined in Section 1113 of the*  
39 *federal Elementary and Secondary Education Act (20 U.S.C. Sec.*  
40 *6301 et seq.).*

1 (c) The amount of the credit shall not exceed two hundred  
2 thousand dollars (\$200,000) per taxpayer, per taxable year.

3 (d) The taxpayer shall receive a certification by the Franchise  
4 Tax Board upon determining that the contribution meets the  
5 requirements of this section and shall apply with the Franchise  
6 Tax Board to receive a credit.

7 (e) In the case where the credit allowed by this section exceeds  
8 the "tax," the excess may be carried over to reduce the "tax" in  
9 the following year, and succeeding five years if necessary, until  
10 the credit is exhausted.

11 (f) This credit shall be in lieu of any other credit or deduction  
12 that the taxpayer may otherwise claim pursuant to this part with  
13 respect to a monetary contribution described in subdivision (a).

14 (g) This credit shall be claimed on a timely filed original return.

15 (h) (1) The aggregate amount of credits allowed under this  
16 section shall not exceed fifty million dollars (\$50,000,000) for  
17 each calendar year.

18 (2) The allocation of credits shall be on a first-come, first-serve  
19 basis.

20 (3) The Legislature may increase the amount in paragraph (1).

21 (i) The Franchise Tax Board and the State Department of  
22 Education shall administer this credit.

23 (1) The Franchise Tax Board shall perform all of the following:

24 (A) Promulgate rules and regulations as necessary or  
25 appropriate to implement this credit.

26 (B) Establish application forms and procedures.

27 (C) Track credits claimed.

28 (D) Post aggregate totals of the credits claimed on the Internet  
29 Web site of the Franchise Tax Board.

30 (E) Determine when the aggregate total of credits reaches fifty  
31 million dollars (\$50,000,000) for a calendar year.

32 (F) Certify that the contributions meet the requirements of this  
33 section.

34 (2) The State Department of Education shall do the following:

35 (A) Adopt rules necessary to determine whether the following  
36 meet the requirements of this section:

37 (i) An EIO.

38 (iii) A contribution.

1 (B) Submit a list of eligible EIOs that comply with the  
2 requirements of this section to the Franchise Tax Board annually  
3 by March 15.

4 (j) Chapter 3.5 (commencing with Section 11340) of Part 1 of  
5 Division 3 of Title 2 of the Government Code shall not apply to  
6 the guidelines or regulations adopted pursuant to this section.

7 (k) This section shall remain in effect only until December 1,  
8 2020, and as of that date is repealed.

9 SEC. 4. This act provides for a tax levy within the meaning of  
10 Article IV of the Constitution and shall go into immediate effect.

11 ~~SECTION 1. It is the intent of the Legislature to enact~~  
12 ~~legislation to allow a credit against the tax imposed by the~~  
13 ~~Corporation Tax Law in the amount of 50 percent of a charitable~~  
14 ~~donation to a nonprofit educational improvement organization that~~  
15 ~~supports innovative programs in the arts or science, technology,~~  
16 ~~engineering, and math learning for students in kindergarten or~~  
17 ~~grades 1 to 12, inclusive, that attend public or private schools~~  
18 ~~located in attendance areas with a high concentration of students~~  
19 ~~from low-income families. It is the intent of the Legislature that~~  
20 ~~this credit would not exceed \$200,000 per taxpayer, be awarded~~  
21 ~~on a first-come, first-serve basis, and have an aggregate cap of~~  
22 ~~\$50,000,000.~~